



DEPARTMENT OF THE NAVY

NAVAL SEA SYSTEMS COMMAND
1333 ISAAC HULL AVENUE
WASHINGTON NAVY YARD DC 20376-2101

IN REPLY REFER TO

5720

Ser SEA 00A5/DON-NAVY-2017-001784F

May 24, 2018

Mr. Todd Doucett
400 Deep Forest Lane
Panama City, FL 32408

SUBJECT: YOUR FREEDOM OF INFORMATION ACT CASE DON-NAVY 2017-001784

Dear Mr. Doucett:

This is a final response to your December 11, 2016, Freedom of Information Act (FOIA) request for a copy of Hotline Investigation 201401584.

A thorough search of this Headquarters' files was conducted, specifically those files located in the Office of the Commander, Inspector General Division (SEA 00N). Knowledgeable personnel with that office were able to locate the identified investigation.

I considered your request under the FOIA (5 U.S.C. 552), as amended, and the Secretary of the Navy Instruction 5720.42F. After reviewing your request, the FOIA exemptions and the instruction, I am partially denying your request under FOIA exemptions (b)(4), (b)(5), (b)(6) and (b)(7)(C).

FOIA Subsection (b)(4) protects confidential business information, the disclosure of which would likely cause substantial competitive harm to the source or would impair the government's ability to obtain similar information in the future. Per prior agreement, information identifying contractor-related information has been redacted.

Subsection (b)(5) protects agency decision-making processes by allowing agencies to withhold pre-decisional and deliberative process information. In this instance, the requested documents responsive to your request contain the candid opinions and recommendations of the investigator provided in an effort to assist in the decision making process. This information has been redacted from the report because it would reveal pre-decisional and deliberative process information, conclusions,

recommendations, and opinions that are simply part of the decision making process rather than the final decision. Revealing such information would harm the decision-making process since it would negatively impact the ability of investigators to provide candid recommendations in the future.

Additionally, portions of the requested documents have been redacted under exemptions (b)(6) and (b)(7)(C) which protect personal privacy.

Exemption (b)(6) requires withholding of information in files where disclosure "would constitute a clearly unwarranted invasion of personal privacy." In applying Exemption (b)(6), a balancing test must be done, weighing the privacy interests of the individuals named in a document against the public interest in disclosure of the information requested. The public interest in disclosure is one that will "shed light on an agency's performance of its statutory duties." Dep't of Justice v. Reporters Committee, 489 U.S. 749, 773 (1989). In this request, all material that is covered by Exemption (b)(6) is also covered by Exemption (b)(7)(C), the law enforcement records privacy exemption, as the records are law enforcement records.

The threshold requirement in any Exemption (b)(7) inquiry is whether the documents were compiled for law enforcement purposes, that is, as part of or in connection with an Agency law enforcement proceeding. F.B.I. v. Abramson, 456 U.S. 615, 622 (1982). A "record compiled for law enforcement purposes" is much broader than simply looking at whether the office that created/obtained/used the record is an office that traditionally enforces the law. So, for instance, a command directed inquiry/investigation report, professional responsibility investigation report, or other report investigating alleged misconduct, discipline, or enforcement of rules are considered "records compiled for law enforcement purposes." The responsive records you seek are properly considered records compiled for a law enforcement purpose. Accordingly, withholding information in the record under Exemption (b)(7) and its subparagraphs is required, as appropriate.

FOIA Exemption (b)(7)(C)'s privacy standard weighs more heavily in favor of redaction than FOIA Exemption (b)(6), but only protects privacy information contained in records compiled for a law enforcement purpose. Exemption (b)(7)(C) requires withholding of records or information compiled for law enforcement purposes, where disclosure "could reasonably be expected to constitute an unwarranted invasion of personal privacy."

In the requested documents, exemptions (b)(6) and b(7)(C) have been used to protect the identities of witnesses and individuals who were the subject of inquiry. Under both balancing tests, the privacy interests of these individuals outweigh the public's interest in disclosure and therefore the names, identifiers, position titles, and other related information that would reveal the identities of the witnesses have been redacted. Release of these names or other related information would do little to shed light on the agency's performance of its statutory duties, and therefore the information is properly redacted.

The releasable portions of the requested documents identified as NAVSEA Hotline Investigation 201401584 dated March 29, 2016, are attached as an enclosure.

I am the official responsible for the decision regarding your request. You are advised of your right to appeal this decision. Should you decide to appeal this determination, you must do so in writing to:

Department of the Navy
Office of the General Counsel
1000 Navy Pentagon, Room 4E365
Washington, DC 20350-1000

Your appeal must be postmarked within 90 calendar days from the date of this letter. A copy of your initial request and this letter must accompany the appeal. The appeal should be marked "FREEDOM OF INFORMATION APPEAL" both on the envelope and the face of the letter. In order to expedite the appellate process and to ensure full consideration of your appeal, it should contain a brief statement of the reasons you believe this decision to be in error.

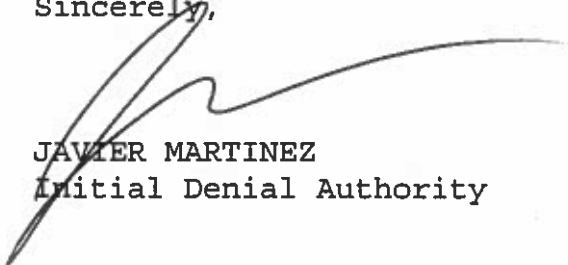
For this determination, you also have the right to seek dispute resolution services from either the Department of the Navy FOIA Public Liaison, Mr. Chris Julka, at: Christopher.a.julka@navy.mil, via phone: (703) 697-0031; or by contacting the Office of Government Information Services at: (<https://ogis.archives.gov/>), (202) 741-5770, ogis@nara.gov.

Questions regarding the action taken by this office to process your request may be directed to the Navy FOIA Service Center at (202) 685-0412 or via email at donfoia-pa@navy.mil.

Fees for processing your request have been waived in this instance. However, fees are assessed on a case-by-case basis and you may be charged for future requests.

If you have any questions concerning the foregoing, please contact Ms. Ginger Dolan, at 202-781-3359.

Sincerely,



JAVIER MARTINEZ
Initial Denial Authority

Enclosure